IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 17TH OCTOBER 2006 / 25TH ASWINA 1928

Bail Appl..No. 6186 of 2006

CRIME NO.335/2006 OF MUNDAKKAYAM POLICE STATION

PETITIONER/ACCUSED:

SHAJI. P.R., S/O.RAGHAVAN, AGED 38,
PANJIPALATHUNKAL HOUSE, KORUTHODE P.O.,
MUNDAKAYAM, KOTTAYAM DISTRICT.

BY ADV. SRI.TITUS MANI
SRI.S.SURAJ (PALATHANATHU)

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/10/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 6186/2006

DATED THIS THE 17TH DAY OF OCTOBER, 2006

O R D E R

The petitioner is before this Court for a pre-arrest order, in crime No.335/2006 of Mundakkayam Police Station, for the offence punishable under Section 3 read with 25(1-A) of the Arms Act, 1959, for having illegally possessed a country made gun. The petitioner was arrested by the Forest Range Officials of Azhutha Forest Range on 4.10.2006, for the petitioner and five others were found in illegal possession of hide of two leopards. Therefore, after the arrest and recovery, the petitioner was produced before the local Magistrate. The country made gun, that was seized at the time of the interrogation and search, was also produced before the Court below. The petitioner was released on 5.10.2006 by the learned Magistrate.

2. On the report of the Forest Range Officials, Mundakkayam police registered the present crime against the petitioner. Therefore, this application is filed for a pre-arrest order.

3. Relying on Section 37(b) of the Arms Act, 1959,

the learned counsel appearing for the petitioner submitted that the Forest Officials, who had arrested and seized the gun, ought to have produced him before the nearest police station, and the police officer was bound to produce him before the Magistrate. The counsel, therefore, submits that the second arrest is not contemplated by the Arms Act. Section 37(a) of the Arms Act is dealing with the application of Code of Criminal Procedure, 1973, for the arrest and seizure under the Arms Act.

4. After hearing both sides and considering the materials that are available on record, I direct the petitioner to surrender before the Judicial Magistrate of First Class-I, Kanjirappally, on 25.10.2006 at 11.00 a.m.

5. The learned Magistrate shall consider the prayers of both the petitioner as well as the prosecution and pass appropriate orders on merit, considering the the application of law and procedure in this case.

The application is disposed of as above.

J.M.JAMES
JUDGE

mrcs